



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/521,442	03/07/2000	Gopinathan K. Menon	680.0035USU	1007

7590 03/12/2003

Charles NJ Ruggiero Esq  
Ohlandt Greeley Ruggiero & Perle  
One Landmark Square  
9th Floor  
Stamford, CT 06901-2682

EXAMINER

DI NOLA BARON, LILIANA

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 03/12/2003

20

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/521,442

Applicant(s)

MENON, GOPINATHAN K.

Examiner

Liliana Di Nola-Baron

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 January 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5-11 and 14-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-3,5-11 and 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group III, claims 21-26, in Paper No. 19 is acknowledged. Claims 1-3, 5-11 and 14-20 are withdrawn from consideration.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mishra et al. (U.S. Patent 6,284,268).

The patent teaches that omega-3 fatty acid oils possess therapeutic properties, including treatment of hyperlipidemia and hypertriglyceridemia, and cites the teachings of European Patent 378,824, which shows that omega-3 fatty acid oils are effective in reducing the level of cholesterol and triglycerides (See col. 1, lines 24-57). Mishra et al. provides pharmaceutical compositions suitable for administration to a mammal, including topical administration, said compositions comprising an effective amount of an omega-3 fatty acid oil, specifically perilla oil, in combination with therapeutic agents, including hyperlipidemia or hypercholesterolemia drugs, and teaches that the oil exerts an additive therapeutic effect with the agent (See col. 4, line 60 to col. 9, line 10). The patent does not specifically teach in what tissue does the lipid and triglyceride level reduction takes place in response to the effect of the application of the oil,

Art Unit: 1615

however, it provides the general teachings that perilla oil is effective in reducing the level of cholesterol and triglycerides and can be administered topically.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teachings of the patent to devise methods to improve the appearance of the skin by reducing lipid or triglyceride synthesis, comprising topically administering a PPAR stabilizer, specifically perilla oil, to the skin. The expected result would have been a successful method to improve the appearance of the skin. Because of the teachings of the patent, that perilla oil is effective in treating hyperlipidemia and hypertriglyceridemia and can be applied topically, one of ordinary skill in the art would have a reasonable expectation that the methods claimed in the instant application would be successful. Therefore the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of Applicant's election of Group III and the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Liliana Di Nola-Baron whose telephone number is 703-308-8318. The examiner can normally be reached on Monday through Thursday, 5:30AM-4:00PM.

Art Unit: 1615

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on 703-308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3592 for regular communications and 703-305-3592 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1234/ 1235.

*Senab*

March 9, 2003

*Thurman K. Page*  
THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600